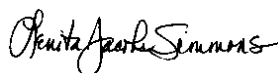


U.S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION WIA
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TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 15-99

TO: STATE WORKFORCE LIAISONS
STATE EMPLOYMENT SECURITY AGENCIES
STATE WORKER ADJUSTMENT LIAISONS
ONE-STOP CAREER SYSTEM LEADS

FROM: LENITA JACOBS-SIMMONS
Deputy Assistant Secretary



SUBJECT: Contingency Planning Options for State Plans under the Workforce Investment Act of 1998 and the Wagner-Peyser Act

1. **Purpose.** This guidance letter outlines the steps to be taken in the event that a State is not prepared to fully implement the required provisions for the Workforce Investment Act by July 1, 2000 - the date which JTPA will be repealed. These steps must be balanced so that States are held accountable to statutory and regulatory requirements and the principles of WIA while ensuring that customers of the workforce investment system continue to have access to the WIA services.

2. **References.** Workforce Investment Act of 1998 (WIA), P.L. 105-220; Planning Guidance and Instructions for Submission of the Strategic Five-Year State Plan for Title I of the Workforce Investment Act of 1998 and the Wagner-Peyser Act (64 F.R. 9402 (February 25, 1999)); and State Unified Planning Guidance (65 F.R. 2464 (January 14, 2000)).

3. **Background.** Under section 112(c) of WIA, a State Plan must be considered to be approved at the end of a 90-day period beginning on the day the Secretary receives the Plan, unless the Secretary makes a written determination, during the 90-day period that: (1) the Plan is inconsistent with the provisions of WIA Title I; or (2) the Plan does not satisfy the criteria for approval provided in section 8(d) of the Wagner-Peyser Act .¹

¹It should be noted that a policy decision has been made that no separate approval for Title I of WIA or Wagner-Peyser will be granted, since the five-year strategic plan incorporates an integrated approach for Title I and Wagner-Peyser.

RESCISSIONS	EXPIRATION DATE Continuing
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During the PY 1999 plan approval process for the early implementing States, the Department utilized the Secretary's transition authority to approve Transition Plans for States that were not ready to fully implement the provisions of WIA. Under a Transition Plan, a State would begin to implement some of the WIA provisions (i.e. the establishment of State and Local Boards) immediately, while waiting until a later time to implement other provisions (e.g., the establishment of Individual Training Accounts). This policy was based on the fact that all States had approved JTPA plans in place, thus allowing for a hybrid of JTPA and WIA elements. Since JTPA will cease to exist as of July 1, 2000, a new plan approval policy needs to be developed.

4. **Policy Guidance.** The process for developing, submitting, reviewing and approving the State Plan for July 1, 2000 is of value only if it supports the effective delivery of services to our customers: the employers and job seekers and workers across the country. Therefore, the Department of Labor must ensure that the process of reviewing State Plans supports the implementation of key reform principles under the Workforce Investment Act, but does not result in the denial of service or the unnecessary reduction or degradation of service.

Using the transition authority granted the Secretary at WIA Section 506(a), we have established the following policy guidance that will enable States to address all of the elements in the WIA Planning Guidance, and either fully implement WIA by the July 1 deadline, or continue transition efforts leading to full implementation at some time after July 1.

First, there are five critical requirements which must be completed or in place before the Department can provide full or even transitional approval of the Plan since they provide the key foundation of a State's workforce investment system. These five critical requirements include:

- **Public comment:** State Plans must describe a process for meaningful public comment, and demonstrate how comments were considered.
- **State Board:** The Plan must identify the entities serving on a new Board, or describe how all entities that are required for a new Board are involved with a grandfathered Board.
- **Local Area designation:** The Plan must identify each of the officially designated local areas.
- **Allocations:** The Plan must identify the formula allocation for adult, youth and dislocated worker programs in each local area.
- **Performance levels:** The 17 indicators of performance must be negotiated by the Regional Administrators and incorporated in the Plan.

These five critical requirements must be completed or in place before the Plan can be approved, either fully or on a transition basis. We anticipate that all States will be able to meet the above critical requirements by June 30, 2000.

Second, assuming a State's plan meets all the critical requirements but does not fully address one or more of the other elements contained in the WIA Planning Guidance, the Regional Administrator will be authorized to approve the Plan as a transition plan if the following information is provided by the State and included in the Plan:

- **Plan elements** not implemented and the reasons why they were not implemented on July 1, 2000;
- **Strategy** for completing/implementing the Plan element(s);
- **Timeline** for achieving full implementation during the Program Year (not later than June 30, 2001); and
- **Interim procedures**, as appropriate, for operation until full implementation (e.g., without Individual Training Accounts, how will training services be provided? How will the transfer to Individual Training Accounts be handled?).

If this information is provided, the Regional Administrator, under the Secretary's transition authority, will be able to approve the Plan as a transition plan. The Regional Administrator will monitor the timeline, and once the State has successfully completed/implemented all of the Plan elements, it will submit the necessary information to support full approval of the State Plan.

5. **Categories of States.** It is anticipated that each State will fall into one of three categories:

Category One: Category One States are those with Plans which are fully consistent with the elements contained in the WIA Planning Guidance, and will substantially implement all systems under the letter of the law and the regulations. Attachment I contains a list of the elements of a substantially implemented WIA system.

- < Category One State Plans will be approved, with no funding restrictions.
- < Category One States will be eligible to apply for incentive grants if they exceed negotiated levels of performance.

Category Two: Category Two States are those with Plans which are consistent with the elements contained in the WIA Planning Guidance, but which will not have all systems up and running by July 1, 2000. For example, Individual Training Accounts may not be established until September 1, 2000. It is expected that many States will fall into this category.

- < Category Two State Plans will be approved as transition plans, as described above, with no funding restrictions. Transitional approval is not full approval under section 112(c) of the Act, and that distinction will be clearly stated in the letter indicating transitional approval.
- < Category Two States will receive technical assistance from the Department as well as from the other Federal partner agencies.
- < Category Two States will be held to the timelines contained in their approved transition plan. Failure to adhere to those timelines would be addressed through corrective action as part of the regular grants management process.

- < Category Two States will be eligible to apply for incentive grants if they have substantially implemented all systems by December 31, 2000 and have exceeded their negotiated levels of performance.
- < Category Two States that have not substantially implemented all systems by December 31, 2000 would not be eligible to apply for incentive grants.

Category Three: Category Three States will be States with State Plans that do not meet the five critical requirements described above.

- < Category Three State Plans will not be approved.
- < Category Three States will receive allotments under the three title I funding streams as well as Wagner-Peyser, however, restrictions will be placed on expenditures. Category Three States will not be authorized to expend funds on any portions of the plan which were specifically not approved. The Regional Administrator will work with the State to develop a plan for operating under this category.
- < Category Three States will receive technical assistance from the Department as well as from the other Federal partner agencies. However, additional strategies may also need to be developed for these States.
- < Category Three States will not be eligible for incentive grants.

6. **On-going Implementation Strategy.** Regional Administrators play a key role in the management and oversight of WIA Implementation, responding to State activity with Federal technical assistance as appropriate. Once the Plans have been set in place (by July 1, 2000), the Regional Administrators will monitor States' efforts to achieve substantial implementation of WIA, including implementation of transition plans by Category Two States. Clearly, Category Three States will be expected to move to Category Two as quickly as possible. It is expected that all States will achieve Category One status before the end of Program Year 2000 (June 30, 2001).

7. **Inquiries.** Questions regarding this policy may be directed to the appropriate Regional Office. Information may also be found at the website - <http://usworkforce.org>.

8. **Attachment.**

I. Elements of a Substantially Implemented WIA System

Attachment I

ELEMENTS OF A SUBSTANTIALLY IMPLEMENTED WIA SYSTEM

STATE BOARD HAS BEEN APPOINTED AND IS OPERATIONAL

- membership is consistent with law and regulations (for new or grandfathered boards)
- board has met at least once

ALL LOCAL AREAS HAVE BEEN DESIGNATED

ALL LOCAL ALLOCATIONS HAVE BEEN ISSUED/LOCALS ARE EXPENDING FUNDS IN ACCORDANCE WITH THEIR PLANS

ALL LOCAL PLANS HAVE BEEN APPROVED/ACTIVITIES AND PROGRAMS ARE IN PLACE

STATE LIST OF ELIGIBLE PROVIDERS HAS BEEN DEVELOPED

STATE/DOL PERFORMANCE GOALS NEGOTIATIONS HAVE BEEN COMPLETED

STATE/LOCAL PERFORMANCE GOALS NEGOTIATIONS HAVE BEEN COMPLETED

PERFORMANCE MEASUREMENT AND REPORTING SYSTEMS ARE IN PLACE

STATE IS PROVIDING STATEWIDE SERVICES AS REQUIRED BY 129 (b)(2) AND 134(a)(2), including:

- State Rapid Response Activities
- widespread dissemination of State list of eligible training providers, including performance and cost information
- dissemination of State list of eligible youth activity providers.

FINANCIAL MANAGEMENT SYSTEMS ARE OPERATING IN ACCORDANCE WITH STATE AND FEDERAL REQUIREMENTS

ALL LOCAL BOARDS HAVE BEEN APPOINTED AND ARE OPERATIONAL

- membership is consistent with law, regulations, and State criteria and Governor has certified
- all boards have met at least once

ALL LOCAL YOUTH COUNCILS HAVE BEEN APPOINTED AND ARE OPERATIONAL

- membership is consistent with law and regulations
- all councils have met at least once

ALL LOCAL BOARDS HAVE CERTIFIED AT LEAST 1 ONE-STOP OPERATOR

ALL LOCAL BOARDS HAVE EXECUTED MOUs WHICH MEET THE REQUIREMENTS OF 121(c)(2) WITH ALL REQUIRED PARTNERS

A FULL SERVICE ONE-STOP CENTER IS OPERATIONAL IN EACH LOCAL AREA THAT:

- provides an integrated intake process
- provides core services
- provides access to partner programs and activities
- makes intensive services accessible to adults and dislocated workers
- provides ITAs to adults and dislocated workers

ALL TEN REQUIRED YOUTH PROGRAM ELEMENTS ARE BEING MADE AVAILABLE IN ALL LOCAL AREAS

YOUTH PROVIDERS HAVE BEEN SELECTED IN ACCORDANCE WITH THE LAW AND REGULATIONS